

ORDINANCE No. 00- 08

AN ORDINANCE AMENDING THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES CHAPTER 21, TOWN OF FORT MYERS BEACH ANIMAL CONTROL ORDINANCE; PROVIDING AUTHORITY; AMENDMENT TO DEFINITIONS; DELETING ESTABLISHMENT OF TOWN POUND; AMENDMENT TO ANIMAL CONTROL ENFORCEMENT AGENCY; PROHIBITIONS AGAINST CRUELTY TO ANIMALS; ADOPTION BY REFERENCE; FLORIDA STATUTES RELATING TO ANIMAL CONTROL, ANIMAL WELFARE AND ANIMAL CRUELTY; DELETING MALICIOUSLY HARMING OR KILLING ANIMALS; ADDING THREATENING OR MENACING BEHAVIOR; DELETING POISONING ANIMALS; ADDING VICIOUS ANIMALS; FIGHTING OR BAITING OF ANIMALS; STERILIZATION OF DOGS AND/OR CATS RELEASED FROM ANIMAL SHELTER FACILITY; NUISANCE ANIMALS; MUSCOVY DUCKS NUISANCE; CONCEALMENT OF ANIMALS; PROHIBITING ANIMALS FROM ROAMING AT-LARGE; DELETING FAILURE TO EXERCISE CONTROL OVER VICIOUS ANIMALS; AMENDMENT TO FAILURE TO CONFINED FEMALE DOGS AND/OR CATS IN SEASON; OPPOSING AN ANIMAL CONTROL OFFICER, HEALTH OFFICIAL, DAMAGING ANIMAL SHELTER FACILITY, RELEASING ANIMALS; ENFORCEMENT OF VIOLATIONS; REDEMPTION AND DISPOSITION OF IMPOUNDED AND UNWANTED ANIMALS; SCHEDULE OF FEES; PROVIDING FOR THE REPORTING OF PERSONS BITTEN OR SCRATCHED BY ANIMALS AND QUARANTINE OF ANIMALS FOR RABIES OBSERVATION; SURRENDER OF CARCASS OF RABID ANIMAL; LICENSING AND VACCINATION REQUIREMENTS FOR DOGS, CATS AND FERRETS; ISSUANCE OF LICENSE CERTIFICATES AND TAGS FOR DOGS, CATS AND FERRETS; LICENSE FEE; DELETING ATTACHMENT OF THE LICENSE TAG TO THE COLLAR OR HARNESS OF DOGS; AMENDMENT TO ISSUANCE OF DUPLICATE TAGS AND TRANSFER OF OWNER; DELETING EXCEPTION TO VACCINATION REQUIREMENTS; AMENDMENT TO; INSPECTION OF COMMERCIAL ANIMAL ESTABLISHMENTS; DISPOSAL OF DEAD BODIES OF OWNED ANIMALS; ANIMALS IN MOTOR VEHICLES; HUMANE TREATMENT OF ANIMALS; ADDING NEW SECTIONS, IMPOUNDMENT OF ANIMALS FOUND IN DISTRESS AND GUARD DOGS; PROVIDING SEVERABILITY; AND EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

SECTION ONE. Authority. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law.

SECTION TWO. Title and Citation. This ordinance shall be known and cited as the "Town of Fort Myers Beach Animal Control Ordinance."

SECTION THREE: Definitions of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

For the purpose of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The words "shall" and "will" are mandatory and not discretionary.

ABANDON: To give up possession of, to neglect, to forsake an animal entirely or to refuse to provide or perform the legal obligations for care and support of an animal by its owner or owner's agent.

ADEQUATE FOOD: Uncontaminated, wholesome, palatable, and of sufficient quantity and nutritive value to maintain the normal condition and weight of the animal. The diet must be appropriate for the individual animal's age and condition, and as defined in 9 Code of Federal Regulations, Section 3.9, Subchapter A, Part 3, Subpart A.

ADEQUATE WATER: A continual access to a supply of clean, fresh, potable water provided in a sanitary manner suitable for the species, and in sufficient amounts to maintain good health. Such water will be provided in a secure manner so that the container cannot be overturned.

ADEQUATE SHELTER: A structurally sound, properly ventilated, sanitary and weather-proof shelter suitable for the species, condition and age of the animal, which provides access to shade from direct sunlight and protection from exposure to inclement weather.

ADEQUATE HEALTH CARE: The provision to each animal of all immunizations and preventative care required to maintain good health, and the provision to each sick, diseased or injured animal of veterinary care or humane death.

AGENCY: ~~Town of Fort Myers Beach Control Agency.~~

ANIMAL: Every living ~~non-human~~ dumb creature.

ANIMAL ROAMING AT LARGE: Any dog not under the restraint, and any animal not in confinement or direct control by leash of the owner or his agent, as defined further herein.

ANIMAL CONTROL ENFORCEMENT AGENCY: An entity composed of persons and officers which have full and complete authority to enforce the provisions, regulations and requirements of this ordinance and applicable laws of the State of Florida relating to animals and animal cruelty.

ANIMAL CONTROL OFFICER: Any person employed or appointed by Lee County who is authorized to investigate, pursuant to law, civil infractions or criminal offenses relating to Animal Control or animal cruelty, and to issue citations as provided in this ordinance, and to file charges based on such investigation.

ANIMAL SHELTER: ~~a facility provided by the Town of Fort Myers Beach or the Humane Society for the purpose of impounding animals under the authority of this ordinance or~~

~~Law of the State of Florida for care, confinement, quarantine, shelter, return to owner, adoption or humane euthanasia.~~

~~AUCTION: any location or facility where animals are regularly bought, sold or traded to the highest bidder except as otherwise defined in this ordinance. This definition does not apply to individual sales of animals by owners.~~

AUCTION: Any facility or place where animals are regularly bought, sold or traded, except for those facilities otherwise defined in this ordinance. This section does not apply to individual sale of animals by owners.

BAITING: To attack with violence, to provoke or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals. "Baiting" also means the use of live animals in the training of racing greyhounds or dogs use in "Hog Dog Rodeos", or any other performing animal exhibition.

BOARD: The Board of County Commissioners of Lee County, Florida

CITATION: The form used to cite owners or ~~eustodian~~ agents for any violations of this Ordinance, or of the applicable laws of the State of Florida.

COMMERCIAL ANIMAL ESTABLISHMENT: Any pet shop, animal grooming shop, flea market, department store, guard dog training facility, ~~auction~~ riding school, ~~stable~~, any type of kennel, cattery, zoological park, circus or a performing animal exhibition; or any other premises or property where animals are kept as part or whole of a business concern. Bonafide commercial agricultural animal establishments are excluded from this definition, with the exception of cruelty to animal investigations as authorized in Section XXVI.A of this ordinance.

COUNCIL: The Town Council of the Town of Fort Myers Beach

CRUELTY TO ANIMALS: As defined in Chapter 828.12 Florida Statutes, any act, omission or neglectful behavior whereby unnecessary or unjustifiable pain or suffering is caused to an animal, Florida Statutes as it may be amended from time to time.

DESIGNEE: Person designated to fulfill the role in the absence of the Public Safety or Animal Control Director.

DIRECT CONTROL: Shall mean immediate and continuous physical control of an animal at all times; such as by means of a fence, leash, cord, or chain of sufficient strength to restrain said animal (excluding herding dogs, dogs in process of hunting, police dogs, dogs participating in a registered field trial, obedience training or trial, or on its owner's property).

DOMESTIC ANIMAL: Any animal kept for ~~pleasure~~ enjoyment and/or companionship rather than utility; an animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent upon people for food, shelter and survival.

DOWNER: Any animal that is nonambulatory.

EUTHANASIA: The humane killing and painless putting to death of an animal that is hopelessly sick, injured or ultimately unclaimed. In the case of dogs and cats, by injection of sodium pentobarbital as defined in Chapter 828-058 Florida Statutes, as it may be amended, from time to time.

FARM ANIMAL: Any animal kept for utility or pleasure, but not used in the preparation of meat.

FERAL ANIMAL: Any animal that is not socialized to humans and is not approachable, nor able to be handled, and/or is unpredictable in its behavior due to fear.

GROOMING SHOP: Any commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

GUARD DOG: Any type of dog that is trained to detect, attack and/or warn that an intruder is present in or near any area that is being secured used primarily for the purposes of defending, patrolling or protecting property or life.

GUARD DOG REGISTRATION: The process of presenting a guard dog to the Animal Control Agency for purposes of documenting pertinent data of the dog, which shall include name, address and telephone number of the guard dog service, the service's manager, the owner (if other than the service), and/or the handler; the dog's breed, sex, color, microchip registration number (if applicable); certification of rabies vaccination; and other distinguishing physical characteristics of the animal, and any "stop attack/release" commands.

GUARD DOG SERVICE: Any person, firm or corporation which trains, sells, rents, leases or loans guard dogs for the purpose of defending, patrolling or protecting properties or persons.

GUIDE DOG: A properly trained dog certified by a licensed seeing-eye, hearing-ear-dog, or helper dog agency, and actually being used by a visually/hearing impaired or handicapped person.

EXOTIC SPECIES: Any animal whose natural habitat is outside the continental United States, excluding non-venomous reptiles and fish.

HEALTH DEPARTMENT: Lee County Health Department.

HOBBY BREEDER: A person owning and breeding purebred dogs or cats, whose primary purpose is for exhibition and improvement of their specific breed, and not for financial gain.

HUMANE CAPTURE METHODS: Use of control poles, muzzles, nets, humane traps and tranquilizer equipment.

HUMANE MANNER: A manner consistent with the physical and behavioral needs of a species; including but not limited to adequate heat, ventilation and sanitary shelter, wholesome food and water consistent with the normal requirements and feeding habits of the particular animal according to its size, species and breed; including necessary veterinary care. to prevent or cure diseases or suffering from injuries.

HUMANE CAPTURE METHODS: use of control poles, muzzles, nets, humane traps and tranquilizer equipment.

HUMANE METHOD:

A) A method of slaughter whereby the animal is rendered insensible to pain by mechanical, electrical, chemical or other means that are rapid and effective, before being shackled, hoisted, thrown, cast or cut, or:

B) A method of slaughter in accordance with ritual requirements of any religious faith whereby the animal suffers loss of consciousness by anemia of the brain, caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

HUMANE TRAP: A device used to capture animals which does not cause injury to the animal upon capture or confinement.

IMPLIED OWNER: Any person who is harboring an animal without ownership being openly or directly expressed.

KENNEL OR CATTERY: Any premises where animals are kept for profit rather than enjoyment, by boarding, grooming, buying, training, selling, letting-for-hire or offering of stud services. Animal hospitals maintained by Florida licensed veterinarians, shelters operated by the Board of County Commissioners or tax exempt animal care facility shall not be considered commercial kennels or catteries.

LIVESTOCK: all cattle, calves, sheep, swine, horses, mules, goats, poultry or any other animals As defined in 828.23, F.S., means all animals of the bovine, equine, or swine class

and also includes goats, sheep, mules, horses, hogs, and domesticated poultry, or any other animal used in and for utility or preparation of meat or meat products.

NUISANCE ANIMAL: Any animal or animals that unreasonably annoy humans, endanger the life or health of other animals or persons, or substantially interferes with the rights of citizens, other than their owners, to reasonable enjoyment of life or property.

OFFICIAL HEALTH RECORD: A certificate signed by a licensed veterinarian that shows the age, sex, breed, name, description and health record of ~~dog or cat~~ an animal; as well as the name, address and phone number of the owner or agent of the owner.

OWNER: Any person ~~or any person's agent~~, or entity owning, keeping, harboring or having control of one or more animals. ~~for three consecutive days or more. An animal shall be deemed to be harbored if it is fed or sheltered for ten (10) or more consecutive days.~~ Any implied owner will also be construed as being the owner of an animal. An animal owner is responsible for keeping their animals under direct control at all times and will be held accountable for any violation of this ordinance.

OWNER'S AGENT: A person or entity capable of acting or empowered to act for and on behalf of the owner.

PERSON: A natural person or persons, firm, association, corporation or any other entity, legal or otherwise, as defined in Chapter 828, Florida Statutes.

PET SHOP: A store, person, partnership, corporation or franchise operation whether operated separately or in connection with another business enterprise that buys, sells, or boards any species of animal for a fee or reimbursement.

PET LICENSE: A document and/or tag issued by the Animal Control Agency indicating that the animal described on the license is owned, kept or boarded by the individual named thereon.

PROBABLE CAUSE: Exists where the facts and circumstances within the Officer's knowledge and of which the Officer has reasonably accurate information sufficient in themselves to lead a reasonable person to believe that an offense has been or is being committed.

PUBLIC PROPERTY: Lands and improvements owned, leased or controlled by the Federal Government, the State, the County, or a municipality, and includes sovereignty submerged lands located adjacent to the County or municipality, buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, right-of-way, and other similar property.

QUARANTINE: the keeping of an animal in an enclosure approved by the County Health department for a ten day period for rabies observation. The strict indoor confinement, isolation and observation of an animal for symptoms of rabies. Such confinement must prevent the animal from coming into unplanned contact with any other animal or human being for a period of ten (10) days from the date of the bite.

RECOGNIZED NATIONAL, REGIONAL OR LOCAL DOG/CAT CLUB: Any National, Regional or Local Dog or Cat Club which is Chartered, Organized, and has By-laws, Directors and Members.

RESTRAINT: The restraint of an animal by leash, fence, building, chain, cage, crate or other secure enclosure that prevents such animal from roaming at large. Dogs that are restrained exclusively by a chain or tether may be so restrained if the restraint is at least ten (10) feet in length. This may be attached to a pulley or trolley mounted on a cable. No chain or tether shall weigh more than 1/8 of the dog's weight, and shall have swivels on both ends. Each chain, tether or leash shall be attached to a properly fitting collar or

harness. Animals must be restrained in a clear area free from obstructions or vermin-harboring debris.

SANITARY: Clean and free from infectious or deleterious influences.

SECURE ENCLOSURE OR RESTRAINT: the restraint of an animal by fence, building, chain, cage, crate or other enclosure that prevents such an animal from running at large.

Confinement of an animal in a building or other enclosure that renders such animal inaccessible to any other animal or people.

THREATENING & MENACING BEHAVIOR: Any aggressive behavior toward a human or another animal, whether by barking, growling or charging, without provocation, where such action on the part of the aggressor creates a reasonable apprehension of immediate injury. This does not include an animal that is secured on its own property.

TWENTY-FOUR (24) HOUR NOTICE: An animal control agency form upon a property in an attempt to notify an owner or owner's agent of an existing violation of an abandoned animal, and that they have 24 hours in which to contract Animal Control Agency.

UNATTENDED ANIMAL: An animal on its own property that is not securely confined and no owner or owner's agent is present, and where that animal is at liberty to come and go freely from its own property.

VETERINARY CARE: Medical treatment by a licensed veterinarian having as its purpose the mitigation of disease, suffering and/or injury.

VICIOUS ANIMAL: Any animal that ~~attaeks~~ bites, scratches or attacks in a menacing fashion, or otherwise injures humans, ~~beings~~ domesticated or other animals without provocation, or which because of temperament, conditioning or training has a history of attacking, biting or injuring humans or any domesticated or other animals.

WARNING NOTICE: An animal control agency form used to notify owner or custodian of form served on an owner or owner's agent advising them of an existing violation of this ordinance.

WILD ANIMAL: Any non-domesticated member of the animal kingdom, including those born or raised in captivity that are not dependent upon human beings for survival.

ZOOLOGICAL PARK: Any facility operated by a person, partnership, corporation or government agency other than a pet shop or kennel, displaying or exhibiting one or more species of animal.

SECTION FOUR: Establishment of Town Pound is deleted.

~~———— The Town Council may, by adoption of a resolution, establish, create, construct, operate or have operated and maintain an animal shelter, to provide animal control services for the Town of Fort Myers Beach. The shelter shall be of adequate size and design for the safe confinement of animals.~~

SECTION FIVE: Animal Control Enforcement Agency of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

~~———— The Town Council may, by adoption of a resolution, establish The Town of Fort Myers Beach Animal Control Enforcement Agency.~~

The Lee County Animal Control Enforcement Agency, hereafter referred to as the Animal Control Agency, is hereby designated as the enforcement agency for the Town of Fort Myers Beach. It shall employ qualified persons who shall be invested with full and complete authority to enforce the provisions, requirements and regulations set forth herein and to discharge the duties of the office. Those persons designated as Animal Control Officers of the Lee County shall have the authority to issue citations and to enforce this Ordinance and the Laws of the State of Florida relating to animals.

SECTION SIX: Prohibitions Against Cruelty to Animals of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

~~A. It shall be unlawful for any person to inflict pain, suffering, bloodletting or death upon any animal located within the Town of Fort Myers Beach.~~

~~B. It shall be unlawful to procure an animal for such purposes.~~

~~C. It shall be unlawful for any person to inflict pain, suffering, bloodletting or death of an animal for sacrificial purposes, including consumption during a sacrifice ceremony, and for any person to molest or penetrate any animal or use the body parts of an animal for sexual gratification.~~

~~D. No person other than a licensed veterinarian shall crop the ears or tail of any dog.~~

~~E. The slaughter of either domestic or wild animals for food purposes (including, but not limited to all lawful hunting activities) is exempt from the provisions of this Section.~~

A. No owner, keeper or agent of an animal shall fail to provide the animal with adequate food, water, shelter or veterinary care; or restrain the animal by any means other than those defined in this Ordinance.

B. No animal shall be kept in unsanitary conditions, or in areas where there is vermin-harboring debris or other material which can provide an opportunity for injury or a danger to the animal's health or welfare.

C. No person shall neglect, beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse or unnecessarily mutilate or kill any animal, or cause the same to be done.

D. It shall be unlawful for any person or owner, or group of persons, to abuse, cause bloodletting or death of an animal.

E. It shall be unlawful for any person to molest or penetrate an animal or use the body parts of an animal for sexual gratification.

F. It shall be unlawful to procure an animal for the purposes set forth in Sections D. and E.

G. No person other than a licensed veterinarian, or an owner certified competent by a licensed veterinarian, shall crop the ears or dock the tail of any dog.

1. A person commits an offense if he crops or cuts off or causes or procures to be cropped or cut off, the whole or part of the ear, ears or tail of a dog.
 2. The possession by any person of a dog with an ear or ears cut off or cropped, or tail docked, and with the wound resulting therefrom unhealed, or any such dog found in the charge or custody of any person, or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this Section, unless the cropping or docking has been carried out by a licensed veterinarian or an owner trained by a licensed veterinarian.
- H. It shall be unlawful for any person to leave or deposit any portion or any substance containing poison in any common street, road, alley, lane or thoroughfare of any kind, or in any yard or enclosure other than that person's own yard or enclosure, for the purpose of inflicting injury or killing any animal.
- I. The humane slaughter of either domestic or wild animals for food purposes (including but not limited to all lawful hunting activities) is exempt from the provisions of this section.
- J. Nothing in this Section shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Ritual slaughter and the handling or other preparation of livestock for ritual slaughter shall be carried out in a humane method. For the purpose of this Section, the term "ritual slaughter" is defined in accordance with Chapter 828.23 (7)(b), Florida Statutes (1995).
- K. 1. No owner or agent of an animal shall abandon any animal in any public or private place.
2. If an Animal Control Officer suspects that an animal has been abandoned, but such animal does not appear to be in immediate distress or danger, the Officer may leave notices posted in a conspicuous place informing the owner or agent to contact said Officer within 24 hours. Failure to do so will result in the animal being removed by the Animal Control Officer. The animal will become the property of the Lee County Animal Control Agency if not redeemed within five (5) days. The officer may issue citations if the owner or agent is subsequently located.

SECTION SEVEN: Adoption by Reference; Florida Statutes Relating to Animal Control, Animal Welfare and Animal Cruelty of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

This ordinance hereby adopts by reference, all Laws of the State of Florida relating to Animal Control, Animal Welfare and Animal Cruelty.

SECTION EIGHT: Maliciously Harming or Killing Animals is deleted.

~~It shall be unlawful for any person to maliciously and intentionally harm or kill any animal for no lawful purpose, or to aid, abet or assist in the malicious harming or killing of said animal. Each such animal so harmed or killed shall constitute a separate offense.~~

SECTION EIGHT: Threatening Or Menacing Behavior of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is added to read as follows:

- A. It shall be unlawful for the owner or agent of any animal to allow that animal to act in a threatening or menacing manner toward any other animal not belonging to said owner or agent, when that animal is not on the property of said owner or agent. This section shall not apply to animals which are securely enclosed, or under the direct control of the owner/agent as defined in this Ordinance. As defined in Florida Statute 767.
- B. It shall be unlawful for the owner or agent of any animal to allow that animal to act in a threatening or menacing manner toward any person not on the property of said owner or agent.
- C. Upon receipt of a report of any animal acting in this manner, the Animal Control Agency may investigate the incident. After investigation, the Animal Control Agency may order the owner or agent to keep the animal restrained or confined as defined in this Ordinance, and may issue a written warning or a citation and a notice ordering confinement.
- D. Upon an owner's conviction under this section, the subject animal will be considered a vicious animal for the purpose of Section Two, Part 14 as defined in this Ordinance. A record of the order to confine, the written warning, the citation with court results, and any supporting affidavits will be held on file at Animal Control.
- E. An order to confine will be a written notice issued by an Animal Control Officer to a person who owns or harbors a dog that has acted in a threatening or menacing manner. One copy will be left with the owner of the animal and one copy will be kept on file at the Animal Control Agency. Such notice shall include name, address and telephone of owner; sex, color, breed of dog; license and rabies vaccination registration numbers; time, date and nature of incident; signature of owner agreeing to confinement and signature of issuing Officer. The confinement must be completed within 24 hours of the notice being issued. The Officer conducting the investigation will check to ensure that the confinement has been completed.
- F. Failure or refusal to confine any animal in violation of this section may result in the animal being impounded and/or citations being issued.
- G. Exception To Threatening Or Menacing Behavior.. An animal that is secured on its own property cannot be found to be threatening.

SECTION NINE: Poisoning Animals

~~It shall be unlawful for any person to leave or deposit any poisonous or injurious substance in any common street, alley, lane or thoroughfare of any kind, or in any yard or enclosure for the purpose of inflicting injury or killing an animal.~~

SECTION NINE: Vicious Animals of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is added to read as follows:

A. The Director of Animal Control or Designee may declare that an animal is a vicious animal, in accordance with applicable Administrative Code.

A. Any animal declared to be a vicious animal shall be confined in a secure enclosure on the premises of the owner or keeper of such animal. No vicious animal shall be allowed off the premises of the owner or keeper unless such animal remains:

1. Inside a secure animal carrier, or

2. Under the physical control of such owner or keeper, and securely muzzled and restrained by a chain with a minimum tensile strength of three hundred (300) pounds and not exceeding three (3) feet in length; or

3. Subject to conditions established by the Director of Animal Control.

B. It is a violation of this ordinance for the owner or keeper of a vicious animal to refuse or fail to confine or restrain such animal as required by this Section.

C. No vicious animal impounded pursuant to this ordinance shall be released until:

1. The owner or keeper of such vicious animal presents proof to the Director of Animal Control that the animal will be confined as required by this Section;

2. The owner or keeper executes an affidavit acknowledging that the animal has been declared vicious, agreeing to confine and restrain the animal, and recognizing the County's right to ownership and custody of the animal if it bites or injures a human or another animal after being declared vicious.

D. The owner or keeper of a vicious animal shall report in writing the name and address of the new owner or keeper to the Director of Animal Control prior to transfer of ownership or custody of such animal, and it is a violation of this ordinance not to report the name and address of the new owner.

E. The owner or keeper of a vicious animal shall report in writing or by telephone the death of such animal to the Director of Animal Control immediately, and it is a violation of this ordinance not to do so. The death of such animal shall be verified by a licensed veterinarian or an Animal Control Officer.

- F. 1. The owner or keeper of a vicious animal, whether or not it has been declared vicious, who permits, allows or causes such animal to run, stray or be uncontrolled or at large in or upon public and private property, shall be in violation of this ordinance if such vicious animal bites, attacks or causes injury to any person or domestic animal.
2. It is a violation of this ordinance for any person convicted under this subsection to own, keep, possess, control or be in charge of any animal of the breed which caused the bite, attack or injury for which a conviction was rendered for a period of three (3) years from the date of conviction. No license certificate, license tag or other permit shall be issued for such type of animal to such person within three (3) years of such conviction.
- G. Exception To Classification No animal shall be classified as threatening or vicious if the threat of injury was sustained by a person who, at the time, was committing or attempting to commit a crime upon the owner of the animal, or who was committing a willful trespass upon premises occupied by the owner of the animal, or who was teasing, tormenting, abusing or assaulting the animal or its owner.

SECTION TEN: Fighting or Baiting of Animals of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

~~It shall be unlawful for any person to promote, allow or permit any animal fights or animal baiting within the Town of Fort Myers Beach to include the promoting, staging, advertising or charging of any admission fee to a fight or baiting between two or more animals, to include the betting or wagering of any money or other valuable consideration on the fighting or baiting of animals or to attend the fighting or baiting of animals.~~

to engage in animal fighting or baiting for amusement or gain, including:

- A. Knowingly owning, managing or operating a facility kept or used for fighting or baiting any animal.
- B. Owning, possessing, keeping, training, promoting, purchasing or knowingly selling any animal for animal fighting or baiting.
- C. Promoting, staging, advertising, wagering or charging an admission fee to a fight (baiting) between two or more animals.
- D. Paying for admission to an animal fight/baiting or attending a fight/baiting as a spectator.

SECTION ELEVEN: Sterilization of Dogs and/or Cats Released From Animal Shelter Facility of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

No unclaimed dog or cat shall be released for adoption without being sterilized prior to entering the new home. unless the adopter signs a written agreement guaranteeing that such animal will be sterilized within thirty (30) days for adult animals or by a specified future date for pups and kittens. Lee County Animal Control Officers are authorized to issue citations for failure to sterilize any cat or dog adopted from the animal shelter. Sterilization may be deferred only on the recommendation of a licensed veterinarian. Any person who adopts an unaltered animal shall be required to leave a cash spay/neuter deposit

SECTION TWELVE: Nuisance Animals of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

A. It shall be unlawful for any owner or owner's agent to fail to care for or control the owner's animals, or to allow them to become a nuisance. ~~For purposes of this ordinance, "nuisance" shall mean: to cause, permit or allow an animal to defecate or urinate upon the sidewalk of any public street or on the property of another or in any public park or beach.~~ The owner of every animal shall be responsible for the removal of any excreta deposited by that animal on public walks, recreation areas or private property or any other place where such excreta deposits may create a nuisance injurious to the public health ~~as defined in Florida Statute Chapter 386.~~

B. It shall be unlawful ~~to~~ for:

(1) ~~permit or allow~~ any animal to make unreasonable disturbing noises, including, but not be limited to: barking, howling, whining, screeching or other utterances causing unreasonable annoyance, discomfort or disturbance of the peace or sleep of a reasonable person(s).

(2) ~~allow~~ any animal to roam at-large.

(3)) ~~to allow~~ any animal to damage the property of anyone other than its owner.

(4) ~~to allow~~ any animal to roam on school grounds or in the area of school vehicles.

(5) ~~to allow~~ any animal to cause unsanitary conditions in enclosures or surroundings where the animal is kept or confined, as determined by the Animal Control Agency or the Health Department to be unsanitary.

(6) ~~keep~~ any person to keep any animals that are ~~offensive or~~ dangerous to the public health, safety or welfare by virtue of the number ~~and~~ and/or types of animals maintained.

(7) ~~allow~~ any animal to disturb or turn over any garbage containers.

C. No person shall offer a bounty for the collection or the elimination of any animal determined to be a nuisance under the provision of this ordinance.

~~D. Any person owning, harboring or in charge of any dog, who allows such dog to defecate on any public beach, right of way, or other public property, or upon any private property without the permission of the owner of the property, shall immediately remove or cause to be removed such feces deposited by such animal and immediately dispose of the same in a sanitary manner. During the time that the dog is on the leash, the person shall carry the necessary equipment to remove such feces in a safe and sanitary manner.~~

SECTION THIRTEEN: Muscovy Ducks Nuisance of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

a. The Animal Control Agency ~~and the Health Department are~~ is hereby given the authority to declare unsanitary conditions created by Muscovy ducks to be a health nuisance. If a health nuisance is determined to exist, the Animal Control Agency may break the eggs of, ~~may relocate or~~ and humanely euthanize Muscovy ducks.

b. The feeding of Muscovy ducks on public property is hereby prohibited.

SECTION FOURTEEN: Concealment of Animals of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

It shall be unlawful for any ~~entity- person~~ to confine, hide or conceal any animal to which it does not have legal title; or any animal which has been involved in a bite or scratch or rabies exposure incident for which formal investigation is pending, unless that ~~entity- person~~ shall have reported possession of such animal to ~~the Agency~~ Animal Control within twenty four (24) hours after acquiring possession of the animal or within twenty-four (24) hours after making reasonable attempts to locate its owner; or to conceal any other animal that is subject to an investigation by the Animal Control Agency.

SECTION FIFTEEN: Prohibiting Animals From Roaming At-large of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

a. It shall be unlawful for any person owning or having possession, charge, custody or control of any animal, including but not limited to domestic, livestock, farm, wildlife or fowl raised in captivity, to permit ~~or allow~~ the animal to stray, run, go or roam at-large in or upon any public street, sidewalk, school grounds, beaches, parks or on the private property of others without the consent of the owner of such property.

b. Any animal found in violation of this Section may be impounded.

c. It shall be lawful under the provision of this Chapter for any property owner or tenant upon property to seize an unrestrained animal, unattended animal, or animal at large on his or her property and turn said animal over to the Animal Control Authority for disposition. Any person seizing an unrestrained, or animal at large shall capture the animal in a safe and humane manner, and may employ certain humane traps for such purpose.

SECTION SIXTEEN: Failure to Exercise Control Over Vicious Animals

~~It shall be unlawful for the owner of any vicious animal, or guard dog to fail to confine such animal in a building or in a secure enclosure. It shall be unlawful for any person to release a vicious animal, either willfully or by failure to exercise due care. Anyone utilizing the service by hire of a guard dog trained to attack an intruder, must post warning signs openly displayed at the entrance to the property. It shall be unlawful for anyone to utilize the services of a guard dog in any food establishment within Lee County. The owner of any animal shall be responsible for all damages to the person of another, the animal of another or the property of another caused by that animal.~~

SECTION SEVENTEEN: Failure to Confine Female Dogs and/or Cats in Season of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

a. It shall be unlawful for the owner of any female dog or cat in season to fail to keep such animal confined in a building or secure enclosure, veterinary hospital, or boarding kennel to prevent such dog or cat coming into contact with another dog or cat except for intentional breeding purposes. Confinement solely by a leash, chain or other similar restraint, or within a fence, open kennel, open cage or run, may be, but shall not be presumed to be, in compliance with this section.

b. For the purposes of this Section, a fenced yard may not be considered a secure enclosure, and any female in season chained on any unfenced lot, tract, yard or parcel of land may be removed by an Animal Control Officer and confined at the Animal Control facility until the owner of said animal provides alternative confinement, or the animal's condition has ceased to exist. The owner or agent shall be liable for all fees incurred. The Animal Control Agency may issue citations for any violation of this Section.

c. Violations of the above shall be subject to the appropriate penalties as set out in Florida law for violations of ordinances.

SECTION EIGHTEEN: Opposing an Animal Control Officer, Health Official, Damaging Animal Shelter Facility, Releasing Animals of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

It Shall be unlawful for any person to oppose, resist, obstruct or in any manner prevent an Animal Control Officer or health official from performing the officer's duty. It shall also be unlawful to tear down, burn, deface, destroy or otherwise injure any animal shelter or vehicle or to release or remove any animal from the custody of an Animal Control Officer or animal control shelter. ~~Each commission of an assault and/or battery upon an Animal Control Officer or health official shall be deemed a separate offense, punishable in accordance with Florida State Statutes.~~

SECTION NINETEEN: Enforcement of Violations of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

Animal Control Officers shall have the authority to impound any animal in violation of this ordinance by using recognized capture techniques and methods. Such methods and techniques may include but not be limited to: leashes, control poles, nets, humane traps and tranquilizer equipment. Animal Control Officers shall have the authority to impound any animal found to be cruelly treated. Any animal so impounded may be taken to a veterinarian without the owner's consent for examination. If after a reasonable effort the seizure of any such unrestrained animal cannot be made, or should the animal be vicious or have an injury or physical condition which causes the animal to suffer, the Animal Control Officer may incapacitate the animal by the most reasonable and humane means then available. Animal Control Officers, on determining that a violation of this Ordinance has occurred, may issue a citation or warning notice to the owner. The citation criteria set forth in Chapter 828.27, Florida Statutes are hereby adopted.

Any person who willfully refuses to sign and accept a citation issued by an Officer is guilty of a misdemeanor of the second degree, punishable as provided for in Florida Statutes.

SECTION TWENTY: Redemption and Disposition of Impounded and Unwanted Animals of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

- A. Any animal impounded under the provision of this ordinance and not redeemed by its owner after ~~three (3)~~ five (5) consecutive days shall become the property of the Animal Control Agency. ~~of Lee County Humane Society.~~ The ~~three (3)~~ five (5) day period does not apply to sick, injured, diseased or orphaned sucklings or wild animals regulated by state wildlife agencies. This time period and may be extended or reduced at the discretion of Animal Control to relieve animal suffering. ~~the Agency pending notification of owner.~~ The Agency Animal Control may utilize the services of a veterinarian to treat sick, injured or diseased animals. The owner shall be responsible for all such costs incurred. Feral cats may only be held for three (3) consecutive days.
- ~~B.~~ Any person seeking to redeem or reclaim an animal impounded under the provisions of this ordinance shall pay the impoundment fees, boarding fees, license fees and all other fees resulting from impounding and caring for the animal. Any animal to be released from the pound, must have a prior license or a license must be obtained by the owner. Upon payment of the license fee, the animal will be released to its owner or assignee, who then must have the animal vaccinated for rabies by a licensed veterinarian. The certificate of vaccination must be returned to the Animal Control Enforcement Agency within ~~seven-~~ ten (10) days (or a specified date for puppies or kittens) as a prerequisite to issuance of the license.

- C. An owner whose animal has been impounded for a second time within one year may shall be charged a double impoundment fee. The Animal Control Officer is hereby given the authority to issue citations for mandatory appearance in court in subsequent impoundment violations.
- D. When the ownership of an animal is deemed questionable the Animal Control Enforcement Agency shall require proof of ownership. Proof of ownership may include license receipt, veterinary records, affidavits from neighbors, photographs or other reliable documentary evidence.

SECTION TWENTY ONE: Schedule of Fees of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

~~_____ The schedule of fees is set forth as follows:~~

Impoundment fees:	Dog	\$25.00
	Cat	\$10.00
	Misc./Small	\$ 5.00
	Vicious animals	\$50.00
Quarantine fee:	For all animals	\$50.00
Non-impoundment Pickup fee	All	\$10.00
Board per Diem:	Dog	\$ 4.00
	Cat	\$ 3.00
	Livestock/Farm	\$ 5.00
	Misc./Small	\$ 2.00

- A. The Council shall set the fee by Resolution.
- B. The fee is payable to the authorized agency or the authorized veterinarian.
- C. License fees are not required for certified seeing-eye leader dogs, hearing dogs, governmental police dogs, or other certified dogs, trained to assist the physically handicapped; but such animals must be licensed and must have received their rabies vaccination.

SECTION TWENTY TWO: Providing for the Reporting of Persons Bitten or Scratched by Animals and Quarantine of Animals for Rabies Observation of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

- A. Any dog or cat that bites or scratches a person shall be impounded by Animal Control and held in quarantine for a minimum period of ten (10) days from the date of bite or scratch, for rabies observation at the Animal Control shelter or a veterinary clinic in Lee County. Information regarding the animal's description, current rabies vaccination date, owner's name, address and telephone number: the address and telephone number of person bitten or scratched and location of wound shall be reported to the Health Department.

- B. If the dog or cat has a current rabies vaccination and a current license, the Animal Control Officer, with the approval of the Health Department, may allow the animal to be quarantined at home if and only if the animal has not bitten someone previously.
- C. It shall be a violation of this ordinance for any person to refuse to surrender any dog or cat for quarantine.
- D. No person shall allow an animal under home quarantine to violate the Home Quarantine Agreement in any way, or allow said animal to roam at large.
- E. Any dog, ~~or cat~~ or ferret that dies or is humanely euthanized while under quarantine shall be decapitated without mutilation and the head sent to the State Board of Health for pathological examination. All other animals (except dogs or cats ~~or ferrets~~) which bite or scratch a person shall not be quarantined, but shall be impounded until instructed by the Health Department as to its disposition.
- F. It is a violation of this Ordinance for anyone to kill or remove from ~~Lee County, Florida,~~ the Town without the express written consent of the Animal Control Agency ~~Health Department~~, any of the following:

- 1. any rabid animal:
- 2. any animal suspected of rabies, any other infectious or contagious disease:
- 3. any animal exhibiting unusual behavior:
- 4. any animal which scratches or bites a person, or
- 5. any animal under quarantine.

G. ~~Whoever does so~~ Any person violating the provisions of this section shall, ~~shall upon conviction be guilty of a misdemeanor in of the second degree, for each separate offense, and be subject to the maximum fine as prescribed by State Law. Punished as provided for in Florida Statutes.~~

SECTION TWENTY THREE: Surrender of Carcass of Rabid Animal of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

Any person who, upon demand, does not surrender to the Animal Control Agency or the Department the carcass of any dead animal exposed to rabies to the Lee County Health Department, shall be guilty of a misdemeanor of the second degree, for each separate offense.

SECTION TWENTY FOUR: Licensing and Vaccination Requirements for Dogs, ~~and Cats~~ and Ferrets of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

- E. Any Every person who owns, keeps or harbors, within the Town of Fort Myers Beach, any dog, or cat or ferret over the age of four (4) months must have such animal vaccinated against rabies. the animal licensed.
- F. Any person who owns, keeps or harbors within The Town any dog, cat or ferret over the age of four (4) months must have such animal licensed. Excluded from this requirement are shelters operated by the Board of County Commissioners, tax exempt animal care facilities and pet shops.
- G. No license shall be issued unless the dog or cat has been vaccinated against rabies and has a certificate of vaccination issued by a licensed veterinarian. Such license and vaccination certificate shall will be valid for one year from date of issue. until the expiration of the Rabies Certificate issued to the same animal, or one year if issued at the same time as the Rabies Certificate. The vaccination certificate shall be valid for one year from the date of issue. The rabies license certificate shall have printed thereon an identification number together with the date, type of vaccine administered, the vaccine manufacturer; the vaccine lot number; the signature or signature stamp of the veterinarian who administered the vaccine, the route of administration; the name of the person issuing the license, the name address and telephone number of the owner, the breed, age, sex, color and markings of the animal, whether the animal has been spayed or neutered and any other features which may help identify the animal. A State approved rabies vaccination certificate which includes the county license number will also be accepted.
- H. Seasonal non-resident owners of animals who reside in Lee County the Town for less than ninety (90) days per year are exempt from the license requirement providing they have a receipt showing a current rabies vaccination no more than one year old.
- I. Any person who owns, keeps or harbors within the Town any dog, cat or ferret over the age of four (4) months must have such animal vaccinated against rabies.
- J. All dogs, cats or ferrets four (4) months of age or older shall be vaccinated by a licensed veterinarian against rabies. Any owner or agent doing self-vaccination for rabies shall be deemed in violation of this Section.
- K. Exception To Vaccination Requirements. No dog, cat or ferret shall require rabies vaccination if a licensed veterinarian has examined the animal and certified that vaccination would endanger its health. A license will be issued by Animal Control upon presentation of an explanatory letter from the veterinarian and payment of the fee.

~~Failure to properly license any dog or cat as outlined above shall be a violation of this Ordinance, and shall constitute a misdemeanor of the second degree.~~

SECTION TWENTY FIVE: Issuance of License Certificates and Tags for Dogs, ~~and Cats~~ and Ferrets of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

- A. A. Upon payment of the fee and submittal of a certificate of rabies vaccination, a license ~~may~~ shall be issued. Each animal so licensed shall be issued a (1) license certificate and a (2) metallic license tag. Such tag shall be impressed with a license identification number which corresponds to the number on the license certificate. No license identification tag issued for one animal shall be considered valid for any other animal. The license certificate and tag may be issued by a licensed veterinarian or the Animal Control Agency upon being shown a vaccination certificate from any licensed veterinarian. ~~the Agency or any licensed practicing veterinarian in Lee County.~~ Certificates shall be executed in triplicate, a copy of the license certificate shall be given to the owner, one to the Animal Control ~~Department~~ Agency and one to the veterinarian. A County license certificate need not be issued if a veterinarian issues a rabies certificate with the County license tag number already shown on it.
- B. The metallic license tag must be attached to the collar or harness of the animal, and must be worn at all times. No one is permitted to remove the collar and/or tag of an animal for the purpose of preventing or falsifying the identification of the animal. Cats are not exempt from this provision. During a recognized breed show, the owner of the dog, cat or ferret shall retain the rabies and license tag and/or rabies and license certificates, and shall produce the same if called upon to verify that any cat, dog or ferret in his possession or owned by him has the required license and vaccination. The certificate of vaccination may be produced if the tag has been lost.
- C. Any client presenting to a veterinarian (or other qualified person) for rabies vaccination a dog, cat or ferret without an affixed license tag shall be informed by that veterinarian or qualified person that Lee County law requires that the animal be licensed and wear a license tag.

SECTION TWENTY SIX: License Fee of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

The Town of Fort Myers Beach License fee is hereby established to be four dollars and fifty cents (\$4.50), which may be changed by resolution of the Town Council from time to time. The fee is payable to the authorized agency or the authorized veterinarian. License fees are not required for certified seeing-eye leader dogs, hearing dogs, governmental police dogs, or other certified dogs trained to assist the physically handicapped, but such animals must be licensed and must have received their rabies vaccination.

~~SECTION TWENTY SEVEN: Attachment of the License Tag To The Collar or Harness of Dogs~~

~~—— The metallic license tag must be attached to the collar or harness of all dogs, which tag must be worn at all times. Dogs participating in dog shows, while hunting, while in training, or while participating in sporting events are exempt from this provision. However, the owner shall have in the owner's immediate possession the dog's license tag at all times when the dog is not wearing its collar. No one is permitted to remove the collar and/or tag of an animal for the purpose of preventing or falsifying the identity of the animal.~~

~~—— Cats are specifically exempt from the wearing of a collar for the display of the license tag.~~

SECTION TWENTY EIGHT: Issuance of Duplicate Tags and Transfer of Owner of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

A duplicate license may be issued if the original is lost or destroyed. ~~The charge for a duplicate tag is one dollar (\$1.00).~~ If a change of ownership of a dog or cat occurs during the license year, the new owner may have the license transferred upon the payment of a transfer fee ~~of one (\$1.00) dollar.~~ as established by resolution.

~~SECTION TWENTY NINE: Exception to Vaccination Requirements~~

~~—— No dog or cat shall require rabies vaccination if a licensed veterinarian has examined the animal and certified that vaccination would endanger its health. A license will be issued by the Agency upon presentation of an explanatory letter from the veterinarian and payment of the fee.~~

SECTION THIRTY: Inspection of Commercial Animal Establishments of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

- A. The Animal Control Officer Agency shall have the authority to enter and inspect any commercial animal establishment in Lee County during reasonable hours, for the purpose of ascertaining violations of this ordinance or of Florida State Statutes as to cruelty to animals. Bonafide commercial agricultural animal establishments which includes livestock as defined herein, are specifically exempt from the provisions of this sub-paragraph A.
- B. Any owner, manager or staff person upon demand of an Animal Control Officer must produce any and all records pertaining to sale or purchase of animals, veterinary care, rabies certification, health certification, feed receipts, business or exhibitors license or permits, relating to each animal on the premises.
- C. Standards of care required to be maintained at all commercial animal establishment in Lee County must include, but are not limited to:

1. All animals must be given adequate food, water, shelter and veterinary care, as defined in this Ordinance.
2. All cages, kennels, stalls or enclosures shall be cleaned daily. Any bedding provided must be clean.
3. In shops or kennels, room temperature shall be maintained at a level that is healthful for every species of animals kept on the premises. Adequate ventilation shall be maintained.
4. All buildings and sheds used for stabling animals shall be well ventilated and provide adequate protection from the elements.
5. Each animal shall have sufficient space to stand up, lie down, and turn around in a natural position, without touching the sides or top of the cage, stall, kennel or enclosure. Overcrowding will be determined by the inspecting officer.
6. Any animal that appears to be sick must be quarantined away from other animals to avoid the spread of disease and examined by a licensed veterinarian before being placed back with other animals or sold.

D. Each animal found in violation of this Section shall be deemed a separate offense.

~~No person or commercial animal establishment shall display, sell, offer for sale or give away any breed of animal with a recorded propensity toward rabies, for which there is no American Veterinary Medical Association approved rabies vaccination available.~~

SECTION THIRTY ONE: Disposal of Dead Bodies of Owned Animals of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

Upon the death of animal, the owner shall be responsible for disposing of the carcass by burial at least two (2) feet below the surface of the ground. The approved alternative method of disposal ~~of~~ is cremation at a Lee County ~~an~~ approved licensed crematory ~~is authorized~~. Nothing in this section prohibits the disposal of animal carcasses to rendering companies licensed to do business in this State. It is unlawful to dispose of the carcass of any domestic animal by dumping the carcass on public property, road or right-of-way, pursuant to Section 823.041, Florida Statutes.

SECTION THIRTY TWO: Animals In Motor Vehicles of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

- A. The owner or The operator of a motor vehicle shall not place or confine an animal, nor allow an animal to be placed or confined in an unattended motor

vehicle without sufficient ventilation or under conditions which may endanger the health or well-being of the animal due to heat, lack of water or any other circumstances which may cause suffering, disability or death.

- B. It shall be unlawful to transport any animal in any vehicle, if such vehicle is of open design, unless the animal is safely and humanely restrained.
- C. Any Animal Control Officer or law enforcement officer who observes an animal in a motor vehicle in obvious distress may enter the motor vehicle by any means necessary, to remove and impound the animal or take the animal to a veterinarian if necessary. If the owner of said animal cannot be contacted, the Animal Control Officer Or law enforcement officer shall leave in a prominent place in Or up on the vehicle, a written notice as to the reason for removal of the animal. ~~Both~~ the owner of the animal and the owner of the motor vehicle are responsible for the costs incurred as the result of this authorized action.
- D. Any person violating the provisions of this Section shall upon conviction be guilty of a misdemeanor of the second degree, punishable as provided for in Florida Statutes.

SECTION THIRTY THREE: Humane Treatment of Animals of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

A. It is unlawful for any person to dye or artificially color any animal or fowl, including but not limited to rabbits, baby chickens and ducklings, or to bring any dyed or colored animal or fowl into this Town.

B. It is unlawful for any person to sell, offer for sale, or give away as merchandising premiums, baby chickens, ducklings, or other fowl under 4 weeks of age, or rabbits under 2 months of age to be used as pets, toys or retail premiums.

C. Any person violating the provisions of this section shall upon conviction be guilty of a misdemeanor of the second degree. punishable as provided for in Florida Statutes ~~775.082 or 775.083.~~

SECTION THIRTY FOUR: Impoundment Of Animals Found In Distress of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is added to read as follows:.

Animal Control Officers shall have the authority to impound any animal found to be cruelly treated or in obvious distress. Any animal so impounded may be taken to a veterinarian without the owner's consent for examination and/or treatment, if necessary. The owner of said animal shall be liable for all costs incurred. Any animal impounded under the provisions of this ordinance and not redeemed by its owner after five (5) consecutive days shall become the property of the Animal Control Agency.

SECTION THIRTY FIVE: Guard Dogs of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is added to read as follows:

- A. Within 90 days of enacting this ordinance, guard dog services shall register all dogs used in their business with the Animal Control Agency. The registration shall include name, address and telephone number of the service's manager; the breed, sex, weight, age, color, tattoo registration number of the guard dog, and other distinguishing physical features of the dog; and certification of rabies vaccination.
- B. Guard dogs newly acquired by guard dog services shall be vaccinated for rabies and registered with Animal Control no later than seventy-two (72) hours after acquisition.
- C. The fee for registration of a guard dog will be listed in the Administrative Codes.
- D. Each guard dog service will be issued with a registration number which will be obtained from the Animal Control Agency. This number will be posted at the entrance of any property using that guard dog service. At the time of registration, each dog will be Micro chipped and receive an I.D. tag that must be affixed to the dog at all times.
- E. The Animal Control Agency shall maintain a guard dog register which shall contain all data required by this section. Immediately upon transfer of ownership, death, disappearance or annual rabies inoculation of a guard dog, each guard dog service or owner shall notify the Animal Control Agency. Upon receipt of the information, the appropriate entry shall be made in the register. If the guard dog has disappeared, an entry should be made to reflect the locale and reason of such disappearance.
- F. An Animal Control Officer shall have the right to enter and inspect all kennels housing guard dogs and other premises where such dogs are in use for determination of owner registration compliance.
- G. It shall be unlawful for any person, firm or corporation to own or harbor any guard dog in the county that has not been inoculated, registered and tattooed as provided by this Section.
- H. Transportation Of Guard Dogs: The vehicle of every guard dog service transporting any guard dog must be clearly marked, showing that it is transporting a guard dog. A compartment separate from the driver and separating each dog is required, which shall be arranged to ensure maximum ventilation for the animal.
- I. Requirements Of Business Using Guard Dogs:
 - 1. Each business which hires or uses a guard dog service to patrol the premises shall provide adequate fencing or some other confining structure to keep the guard dog within the enclosed area.

2. Each business which hires or uses a guard dog service to patrol the premises during that business' operating hours shall have said dog confined in such a manner so as not to pose a danger to the public.
3. At each appropriate location and entry point, and at 50 foot intervals along the fence perimeter, if applicable, a sign shall be posted including the words "Bad Dog" or "Guard Dog", with a dog picture.
4. All entry points shall be posted with the guard dog service registration number.
5. Dogs, used for guarding businesses must be given a humane existence, including adequate shelter, food, water and exercise.
6. No dog which has been classified as dangerous or vicious by the Animal Control Agency shall be used as a guard dog.
7. Failure to comply with this section is a violation of this ordinance.

SECTION THIRTY SIX. SEVERABILITY. If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and in no way affect the validity of all other provisions of this ordinance.

SECTION THIRTY SEVEN. EFFECTIVE DATE. This ordinance shall take effect immediately upon its adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council

Member Murphy and seconded by Council Member Cereceda

and, upon being put to a vote, the result was as follows:

Anita T. Cereceda	<u>aye</u>
Daniel Hughes	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>
Terry Cain	<u>aye</u>

DULY PASSED AND ENACTED this 5th day of June, 2000.

ATTEST:

TOWN OF FORT MYERS BEACH

By: Marsha Segal-George
Marsha Segal-George, Town Clerk

By: Daniel Hughes
Daniel Hughes, Mayor

Approved/as to form by: Richard V.S. Roosa
Richard V.S. Roosa, Town Attorney